

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

REYNAURD M. GOBER,

Plaintiff,

v.

Case No. 2:22-cv-11948

District Judge
Gershwin A. Drain

DAVE MARTIN and
DAVID MESSER

Magistrate Judge
Patricia T. Morris

Defendants.

**ORDER ACCEPTING AND ADOPTING REPORT AND
RECOMMENDATION [#21] AND GRANTING DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT [#15]**

Plaintiff Reynaurd M. Gober (“Plaintiff”), an inmate at Kinross Correctional Facility, initiated this action pursuant to 42 U.S.C. § 1983 on August 19, 2022. ECF No. 1. He alleges that prison officials at Gus Harrison Correctional Facility violated his due process rights by falsifying a misconduct hearing report and retaliated against him when he filed a grievance about the matter. ECF No. 1, PageID.50; ECF No. 19, PageID.161–165.

Before the Court is a Motion for Summary Judgment filed by Defendants Dave Martin and David Messer (“Defendants”). ECF No. 15. Defendants ask the Court to partially dismiss this action, arguing that Plaintiff failed to administratively exhaust his retaliation claim against Martin and failed to exhaust any claim against

Messer. Plaintiff argues in response that he failed to take Defendants' requested measures because of administrative limitations and fear of reprisal. ECF No. 19.

The Court referred the matter to Magistrate Judge Patricia T. Morris on June 14, 2023. ECF No. 16. Judge Morris recommends granting Defendants' Motion and dismissing the contested claims without prejudice. *Id.* Plaintiff has not objected to the Report and Recommendation, and the time to do so has passed. *See* Fed. R. Civ. P. 72(b)(2).

Upon review of the parties' briefing, the record, and the Report and Recommendation, the Court determines that Judge Morris reached the correct conclusion. Accordingly, the Court **ACCEPTS AND ADOPTS** Judge Morris's November 13, 2023 Report and Recommendation (ECF No. 21) as this Court's findings of fact and conclusions of law.

Defendants' Motion for Summary Judgment (ECF No. 15) is hereby **GRANTED**. Plaintiff's retaliation claim against Defendant Martin and all claims against Defendant Messer are **DISMISSED**. Plaintiff may still proceed on his due process claim against Defendant Martin for falsifying a misconduct hearing report.

IT IS SO ORDERED.

Dated: December 11, 2023

/s/ Gershwin A. Drain
GERSHWIN A. DRAIN
U.S. DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on December 11, 2023, by electronic and/or ordinary mail.

/s/ Teresa McGovern
Case Manager